

Appn. Number 09/473,078 (Shkedi) GAU 3622 Amnt. C contd.

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REMARKS

Applicant appreciates the opportunity of meeting personally with the Examiner and discussing ways to patentably define the invention over Roth PCT Appl. WO 98/34189 and the other prior art of record, and to more optimally structure the claims so as to clarify the defining aspects of the invention. This amendment is consistent with the Examiner's guidance and the various points of agreement reached during that interview.

I. Claims 1-4, 6-17, and 19-41 - Rejected Under 35 U.S.C. 102 as Being Anticipated by Roth, PCT Appl. # WO 98/34189:

A. Independent Claim 1 has been amended to:

- 1) Define that the communication node *electronically* performs all the steps set forth in the claim. This distinguishes the invention over any patent that involves a simple mental step, and not a complex electronically-performed algorithm as in the invention.
- 2) Define that the *distributor* assigns an economic value contribution to each attribute.
- 3) Define that the communication node electronically determines the price of the bid-response combination *by logically and arithmetically aggregating the economic value contributions* assigned by the distributor. This amended claim language goes well beyond section (g) of the previous Claim 1, which stated only that the price of the visitor profile was determined as the sum of the attribute prices.

B. Independent Claim 27 has been amended, in a similar manner as Claim 1, to:

- 1) Define that the advertisement transfer device *electronically* performs all the steps set forth in the claim. This distinguishes the invention over any patent that involves a simple mental step, and not a complex electronically-performed algorithm as in the invention.
- 2) Define that the *distributor* assigns an economic value contribution to each attribute.
- 3) Define that the advertisement transfer device electronically determines the price of the bid-response combination *by logically and arithmetically aggregating the economic value contributions* assigned by the distributor. This amended claim

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language goes well beyond section (g) of the previous Claim 27, which stated only that the price of the visitor profile was determined as the sum of the attribute prices.

C. Independent Claim 36 has been amended, in a similar manner as Claim 27, to:

- 1) Define that the program storage device *electronically* performs all the steps set forth in the claim. This distinguishes the invention over any patent that involves a simple mental step, and not a complex electronically-performed algorithm as in the invention.
- 2) Define that the *distributor* assigns an economic value contribution to each attribute.
- 3) Define that the program storage device electronically determines the price of the bid-response combination *by logically and arithmetically aggregating the economic value contributions* assigned by the distributor. This amended claim language goes well beyond section (g) of the previous Claim 36, which stated only that the price of the visitor profile was determined as the sum of the attribute prices.

D. Independent Claim 37 has been amended to:

- 1) Define that the program storage device *electronically* performs all the steps set forth in the claim. This distinguishes the invention over any patent that involves a simple mental step, and not a complex electronically-performed algorithm as in the invention.
- 2) Define that the program storage device electronically determines the price of the bid-response combination *by logically and arithmetically aggregating the economic value contributions*. This amended claim language goes well beyond section (g) of the previous Claim 37, which stated only that the price of the visitor profile was determined as the sum of the attribute prices.

All the amended independent claims above define over Roth, because in Roth the price of a bid-response combination is not determined by a communication node logically and arithmetically aggregating the economic value contributions assigned by a distributor.

In addition, Roth does not disclose another key aspect of the invention defined in the claims - i.e., the communication node electronically "spreading" the attributes of a distributor's response to form a large number of bid-response combinations. This "spreading" step involves an

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information pre-positioning of the large number of combinations, and is an essential step that allows the invention to operate viably in real-time. Without this step, sensible selection of a bid-response combination becomes an N-P Complete problem, which is not viable in the economically critical real-time circumstances of Internet traffic banner placement and the like.

Finally, since independent claims 1, 27, 36, and 37 now define patentably over the prior art, their dependent claims 2-4, 6-17, 19-35, and 38-41 also define patentably. Nonetheless, Claims 2, 31-34, 38, and 40 have been additionally amended, to further define that the steps of broadcasting and collecting responses, optimizing a selection from a plurality of broadcast profiles, and determining the price of a visitor profile are all performed electronically by the communications node, advertisement transfer device, or program storage device.

II. Claim 5 - Rejected Under 35 U.S.C. 103 as Being Obvious Vs. Roth, PCT Appl. # WO 98/34189:

As discussed above, amended Claim 1 defines patentably over Roth because Roth does not disclose a communication node logically and arithmetically aggregating the economic value contributions assigned by a distributor to determine the price of a bid-response combination. Roth also does not disclose the communication node electronically "spreading" the attributes of a distributor's response to form a large number of bid-response combinations.

It would also not be obvious to modify Roth to meet amended Claim 1, because doing so would require a major reworking, and would significantly alter Roth's operating principles. Such a modification would not be obvious, as stated in MPEP 2143.01: "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. In re Ratti, 270 F. 2d 810, 123 USPQ 349 (CCPA 1959)."

Since amended Claim 1 defines patentably over Roth, Claim 5 also defines patentably over Roth, because Claim 5 depends from and contains the same limitations as Claim 1.

III. Claim 18 - Rejected Under 35 U.S.C. 103 as Being Obvious Vs. Roth, PCT Appl. # WO 98/34189, in View of Bezos # 6,029,141:

As discussed above, amended Claim 1 defines patentably over Roth because Roth does not disclose a communication node logically and arithmetically aggregating the economic value contributions assigned by a distributor to determine the price of a bid-response combination.

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Roth also does not disclose the communication node electronically "spreading" the attributes of a distributor's response to form a large number of bid-response combinations.

Bezos also does not disclose the above features clearly defined in Claim 1; thus any combination of Roth and Bezos would also not disclose the above features. Since amended Claim 1 defines patentably over Roth in combination with Bezos, Claim 18 also defines patentably over Roth in combination with Bezos, because Claim 18 depends from and contains the same limitations as Claim 1.

IV. Discussion of Hanson # 5,974,398; Dedrick # 5,724,521; and Goldhaber # 5,794,210:

As with Roth, neither Hanson nor Dedrick nor Goldhaber disclose a key aspect of the invention, which is defined in the claims - i.e., the communication node electronically "spreading" the attributes of a distributor's response to form a large number of bid-response combinations. This "spreading" step involves an information pre-positioning of the large number of combinations, and is an essential step that allows the invention to operate viably in real-time. Without this step, sensible selection of a bid-response combination becomes an N-P Complete problem, which is not viable in the economically critical real-time circumstances of Internet traffic banner placement and the like.

In addition, Hanson and Goldhaber rely on one or more aspects of *viewer choice* in their methods, and it is clear from the amended claims that viewer choice is simply not an aspect of the invention's method.

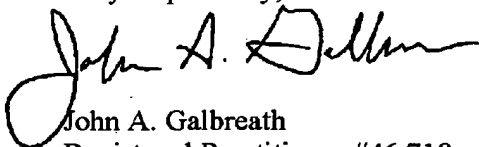
CONCLUSION

For all of the above reasons, Applicant submits that the claims are now in proper form, and that the claims all define patentably over the prior art. Therefore Applicant submits that this application is now in condition for allowance, which action they respectfully solicit.

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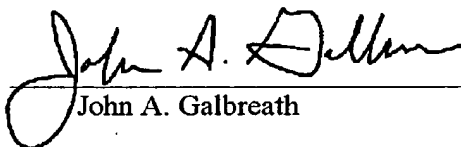
Very respectfully,



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29 September 2003


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